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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,587

11/24/2003

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EXAMINER

SIKRI, ANISH

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/720,587	<b>Applicant(s)</b> HODGES ET AL.	
	<b>Examiner</b> ANISH SIKRI	<b>Art Unit</b> 2143	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 25 April 2008.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-20 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-20 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 6-7, 10-17, 19-20 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Logan et al (US Pub 2003/0093790), in view of Ando (US Pub 2003/0126610).

Claim 1, Logan et al disclosed the method of providing communication services, comprising: receiving a request for communication service (Logan et al, [0015]-[0016]), the request for communication service originating from a client communications device associated with a user (Logan et al, [0015]-[0016]), the request for communications service requesting communications service from service provider (Logan et al, [0050]), ascertaining a most profitable scenario that describes a combination of segmentation, dispersion, and assemblage of segments that achieves a highest profit (Logan et al, [0065], [0096]-[0101]). Then grouping together individual packets as a segment (Logan et al, [0065]), each of the individual packets in the segment requiring the processing service dispersing the segment via a network to receive the for processing service (Logan et al, [0065], [0096], Logan et al disclosed on how the meta-data is processed); receiving a result of the processing service (Logan et al, [0094]-[0096], Logan et al disclosed the meta-data results)

But Logan does not explicitly disclose the method of dynamically assessing in real-time an availability of i) a communication network operated by the service provider and ii) another communications network operated by a different service provider.

Nonetheless, Ando does disclose the method of dynamically assessing in real-time an availability of a network (Ando, [0093]-[0094], Ando disclosed on it measures the bandwidth, as it discloses network availability).

Both Ando and Logan et al provide features related to communication services.

Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate reliable real-time communications between the provider and the subscriber, taught by Ando, in the system of Logan et al, for providing communication services.

But Logan does not explicitly state determining a subcontracted processing service; and interrogating a different service provider to fulfill the subcontracted processing service; and dispersing the segment to a different service provider along with receiving the result of a subcontracted processing service.

Nonetheless, Ando disclosed the state determining a subcontracted processing service (Ando, [0042], [0045], Ando disclosed that the IP streaming system does provide multimedia distribution processing); and interrogating a different service provider to fulfill the subcontracted processing service (Ando, [0046], Ando disclosed on how the content is obtained from the distribution server after receiving request from the navigation server); and dispersing the segment to a different service provider along with receiving the result of a subcontracted processing service (Ando, [0045]-[0046], Ando

disclosed on how the different service providers provide requested content processing service in the network).

Both Ando and Logan et al provide features related to communication services. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of subcontracted/distributed processing taught by Ando, in the system of Logan et al for the purpose of reducing system/network load.

Consider Claim 2, Logan et al in view of Ando disclosed the method according to claim 1, wherein determining the subcontracted processing service is required (Ando, [0045]-[0046], disclosed on how the different service providers provide requested content processing service in the network) grouping together the individual packets comprises grouping together the individual packets (Logan et al, [0017]-[0018]) that require a color correction service and wherein receiving the result comprises receiving the result of the, color correction service (Logan et al, [0069]-[0070], Logan et al disclosed on how visual data is optimized/smoothed/filled etc).

Consider Claim 3, Logan-Ando disclosed the method of claim 1 further comprising dynamically assessing in real-time an availability of a network (Ando, [0093]-

[0094], Ando disclosed on it measures the bandwidth, as it discloses network availability).

Consider Claim 4, Logan-Ando disclosed the method of claim 1, subcontracted processing service (Ando, [0042], [0045], Ando disclosed that the IP streaming system does provide multimedia distribution processing); to the different service provider (Ando, [0046], Ando disclosed on how the content is obtained from the distribution server after receiving request from the navigation server).

Consider Claim 6, Logan-Ando disclosed the method according to claim 1, wherein ascertaining the best value scenario comprises ascertaining a lowest-cost scenario for formatting the electronic data according to a characteristic of the client communication device (Logan et al, [0096]-[0101], Logan disclosed on the qualitative, descriptive, identifications characteristics, in order to analyze the scenario cost of transmission/segmentation of data).

Claim 7 has similar limitations as of Claim 6, therefore it is rejected under the same rational as of Claim 6.

Consider Claim 10, Logan-Ando disclosed the method of claim 1, further comprising utilizing the another communication network operated by different service

provider (Ando, [0046], Ando disclosed on how the client communicates with another provider for content after receiving request from the navigation server).

Consider Claim 11, Logan- Ando disclosed a method of providing communications services, sending a reservation to reserve a routing path (Ando, [0069], Ando disclosed that the routers use protocols such as RSVP, which are used for reserve routing paths between devices/nodes/routers etc), the reservation instructing a device to only accept packets of data destined for that routing path (Ando, [0090], Ando disclosed when a path is reserved, the data content is passed only on that reserve path which is reserved by using RSVP), the reservation instructing a device to only accept packets of data destined for that routing path (Ando, [0116]), the reservation specifying a window of time in which the packets of data are received and processed comprising receiving a request for data (Ando, [0116]).

Consider Claim 12, Logan-Ando disclosed the method of claim 1, wherein providing the communications service utilize at least one of i) wireline network (Logan, [0050]) operated by the different service provider (Ando, [0045]-[0046]) and ii) a wireless network (Logan, [0050]) operated by the different service provider (Ando, [0045]-[0046]).

Claim 13 has similar limitations as of Claim 12, therefore it is rejected under the same rational as of Claim 12.



Claim 14 has similar limitations as of Claim 1, therefore it is rejected under the same rational as of Claim 1

Claim 15 has similar limitations as of Claim 1, therefore it is rejected under the same rational as of Claim 1.

Claim 16 has similar limitations as of Claim 2, therefore it is rejected under the same rational as of Claim 2.

Claim 17 has similar limitations as of Claim 4, therefore it is rejected under the same rational as of Claim 4.

Claim 19 has similar limitations as of Claim 2, therefore it is rejected under the same rational as of Claim 2.

Claim 20 has similar limitations as of Claim 4, therefore it is rejected under the same rational as of Claim 4.

Claims 5, 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Logan et al (US Pub 2003/0093790), in view of Ando (US Pub 2003/0126610), and further in view of Wee et al (US Pat 7,184,548).

Consider Claim 5, Logan-Ando disclosed the method according to claim 1, wherein determining the subcontracted processing service is required (Ando, [0042], [0045], Ando disclosed that the IP streaming system does provide multimedia distribution processing); and interrogating a different service provider to fulfill the subcontracted processing service (Ando, [0046], Ando disclosed on how the content is obtained from the distribution server after receiving request from the navigation server); and dispersing the segment to a different service provider along with receiving the result of a subcontracted processing service (Ando, [0045]-[0046], Ando disclosed on how the different service providers provide requested content processing service in the network) grouping together the individual packets comprises grouping together the individual packets (Logan et al, [0073], Logan et al disclosed the combined collection of data).

But Logan et al-Ando fails to disclose a scaling service, and wherein receiving the result comprises receiving the result of the scaling service.

Nonetheless, Wee et al, discloses a scaling service, and wherein receiving the result comprises receiving the result of the scaling service (Wee et al, Col 7 Lines 64-67, Col 8 Lines 41-45, Wee et al disclosed on how scaling is used in the system).

Both Logan et al, Ando and Wee et al provide features related to data management. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the scaling features, taught by Wee et al, in the system of Logan et al, for the purpose of properly relaying the data to the client device.

Claim 18 has similar limitations as of Claim 5, therefore it is rejected under the same rational as of Claim 5.

Claims 8, 9 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Logan et al (US Pub 2003/0093790), in view of Ando (US Pub 2003/0126610), and further in view of McKinnin et al (US Pat 6917628).

Consider Claim 8, Logan-Ando does not explicitly state the use of Service Level Agreement for defining parameters for communication service requested by the user.

Nonetheless, McKinnin et al disclosed the use of Service Level Agreement for performing processing services (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Both Logan-Ando-McKinin provide features related to communication services. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are from the same environment.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of Service Level Agreement, taught by McKinnin et al, in the system of Logan et al, in view of Ando for the purpose of monitoring/measuring the level of service provided to users/third-party.

Claim 9 has similar limitations as of Claim 8, therefore it is rejected under the same rational as of Claim 8.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 5712701783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anish Sikri/  
Examiner, Art Unit 2143

July 18, 2008

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2143